

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

MARLOS LeKEITH TIPTON,)
Plaintiff,)
v.)
HENDERSON COUNTY SHERIFF'S)
DEPARTMENT, ET AL.,)
Defendants.)
No. 1:22-cv-01162-SHM-tmp

**ORDER DENYING PENDING MOTION (ECF NO. 20); AND
DIRECTING TIPTON TO SHOW CAUSE**

Before the Court is the status of *pro se* Plaintiff Marlos LeKeith Tipton's prosecution of the case. For the reasons explained below: (1) Tipton's fourth motion for update, summons, service of process, and scheduling order (ECF No. 20) is DENIED; and (2) Tipton is ORDERED TO SHOW CAUSE why the Court should not enter judgment, pursuant to the conditions explained below.

I. PROCEDURAL HISTORY

On August 1, 2022, Plaintiff Marlos LeKeith Tipton filed a *pro se* complaint under 42 U.S.C. § 1983. (ECF No. 1.) When Tipton filed the complaint, he was confined at the Henderson County Jail (the “HCJ”), in Lexington, Tennessee. (ECF No. 1-1 at PageID 4.) Tipton signed the complaint as “Marlos LeKeith Tipton” (ECF No. 1 at PageID 3) and used that name in his return address on the complaint (ECF No. 1-1 at PageID 4).

On September 8, 2022, the Court granted leave to proceed *in forma pauperis*. (ECF No. 8 (the “IFP Order”).) The IFP Order notified Tipton that “[i]f [Tipton] is transferred to a different prison or released, he is ORDERED to notify the Court immediately, in writing, of his change of

address. ... If [Tipton] fails to abide by these or any other requirements of this Order, the Court may impose appropriate sanctions, up to and including dismissal of this action, without any additional notice or hearing by the Court.” (*Id.* at PageID 42.)

Tipton’s April 23, 2023 motion seeking an update about the case showed that he was confined at the Bledsoe County Correctional Complex (the “BCCX”), in Pikeville, Tennessee. (ECF No. 18-1 at PageID 77.) Tipton has never notified the Clerk of Court that Tipton has been transferred from the HCJ to the BCCX.

On May 26, 2023, the Court: (1) granted Tipton’s motion to amend (ECF No. 9); (2) dismissed the Consolidated Complaint (ECF Nos. 1 & 9) without prejudice; (3) granted leave to amend within twenty-one days; (4) denied four of Tipton’s pending motions (ECF Nos. 7, 15, 17 & 18); and (5) directed Tipton to provide his updated address to the Clerk of Court. (ECF No. 21 (the “Screening Order”).) Tipton’s deadline to amend the Consolidated Complaint was Friday, June 16, 2023. (*Id.* at PageID 92.) On May 26, 2023, the Clerk of Court mailed the Screening Order to Tipton at the BCCX. (See ECF No. 18-1 at PageID 77.)

On May 22, 2023, Tipton had filed another “motion for update, summons, service of process and scheduling order.” (ECF No. 20 (the “Fourth Motion For Update”).) Tipton used the name “Marlos LeKeith Tipton (Mann)” in his return address at the BCCX. (ECF No. 20-1 at PageID 82.) Tipton’s use of “(Mann)” at the end of his name on the Fourth Motion For Update’s return address is the only instance in the record where he has used the surname Mann. On June 13, 2023, the copy of the Screening Order that had been mailed to Tipton at the BCCX was returned as undeliverable. (ECF No. 22 (marked “Return to Sender – Name and TDOC # do not match”).)

Tipton’s failure to keep the Court informed about Tipton’s current address and Tipton’s inconsistent use of different surnames in the record demonstrate failure to prosecute his claims and failure to comply with the IFP Order.

The Court ORDERS Tipton to: (1) SHOW CAUSE, by filing a notice on or before July 14, 2023, addressing why the Court should not enter judgment in this case; and (2) PROVIDE HIS UPDATED ADDRESS, including his full legal name as assigned in the records of the Tennessee Department of Correction. Failing to comply with this Order in a timely manner will result in a judgment dismissing this action with prejudice without further notice for failure to prosecute and/or failure to comply with Orders of the Court, pursuant to Federal Rule of Civil Procedure 41(b).

Tipton's Fourth Motion For Update (ECF No. 20) is DENIED for the reasons explained in the Screening Order. (See ECF No. 21 at PageID 91.)

The Clerk is DIRECTED to mail a copy of this Order to: (1) "Marlos LeKeith Tipton (Mann)" at the BCCX (see ECF No. 20-1 at PageID 82); and (2) "Marlos Mann" at the BCCX (*see* <https://foil.app.tn.gov/foil/details.jsp> (Tennessee Department of Correction Felony Offender Information website, showing "Marlos Mann" is assigned TDOC inmate identification number 00226903) (last accessed June 29, 2023)).

IT IS SO ORDERED, this 30th day of June, 2023.

/s/ Samuel H. Mays, Jr.
SAMUEL H. MAYS, JR.
UNITED STATES DISTRICT JUDGE